

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AMANDA CLARKE, et al., : REPORT AND
Plaintiffs, : RECOMMENDATION
-against- : TO THE HONORABLE
THE CITY OF NEW YORK, et al., : ROBERT W. SWEET
Defendants. :
-----x

FRANK MAAS, United States Magistrate Judge.

In this civil rights action, plaintiff Amanda Clarke alleges that the New York City Police Department violated her constitutional rights by unlawfully terminating an Occupy Wall Street protest on September 24, 2011. (ECF No. 7 ¶ 1).

On July 30, 2013, the law firm of Rankin & Taylor, PLLC, filed this action on behalf of Clarke and three other plaintiffs. (ECF No. 1). On May 22, 2015, Rankin & Taylor moved for leave to withdraw from representation of Clarke. (See ECF No. 30). By order dated June 9, 2015, Magistrate Judge Michael H. Dolinger, who previously was assigned to this case, granted that request. (ECF No. 33). Judge Dolinger cautioned that, if Clarke failed to retain new counsel by June 30, 2015, she would be deemed a pro se litigant. (Id.). Thereafter, no substitute counsel entered an appearance, and Clarke did not communicate with the Court.

On October 8, 2015, Rankin & Taylor informed the Court that the three other plaintiffs had settled their claims against Defendants. (ECF No. 36). Accordingly, by order dated October 14, 2015, I directed that Clarke attend an in-court conference on November 12, 2015. (ECF No. 37). I further cautioned Clarke that if she failed to comply, I would recommend to Your Honor that her claims be dismissed for want of prosecution. (Id.). Copies of the order scheduling that conference were mailed to Clarke at her last known address, as well as four other past known addresses. (Id.). Despite these efforts, Clarke did not appear at the November 12 conference.

Pursuant to Federal Rule of Civil Procedure 41(b), a defendant may move for dismissal of an action if the plaintiff fails to prosecute the action. The Court also may

dismiss an action sua sponte for want of prosecution. LeSane v. Hall's Sec. Analyst, Inc., 239 F.3d 206, 209 (2d Cir. 2001).

Despite my warning that the failure to attend the November 12, 2015 conference could result in the dismissal of this action for want of prosecution, Clarke did not appear and has not otherwise communicated with the Court or opposing counsel. In light of Clarke's apparent abandonment of this action, I recommend it be dismissed for want of prosecution.

Notice of Procedure for Filing Objections to this Report and Recommendation

The parties shall have fourteen days from the service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure. See also Fed. R. Civ. P. 6(a) and (e). Any such objections shall be filed with the Clerk of the Court, with courtesy copies delivered to the chambers of Honorable Robert W. Sweet, to my chambers at the United States Courthouse, 500 Pearl Street, New York, New York 10007, and to any opposing parties. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(e), 72(b). Any requests for an extension of time for filing objections must be directed to Judge Sweet. The failure to file these timely objections will result in a waiver of those objections for purposes of appeal. See Thomas v. Arn, 474 U.S. 140 (1985); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(e), 72(b).

SO ORDERED.

Dated: New York, New York
 November 12, 2015



FRANK MAAS
United States Magistrate Judge

Copies to:

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